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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,517	04/03/2000	Rabindranath Dutta	AUS0000061US1	4595
7590	06/24/2004			EXAMINER
DILLION & YUDELL LLP 8911 NORTH CAPITAL OF TEXAS HIGHWAY SUITE 2110 AUSTIN, TX 78759			BLAIR, DOUGLAS B	
			ART UNIT	PAPER NUMBER
			2142	15
DATE MAILED: 06/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/542,517	DUTTA, RABINDRANATH
	Examiner	Art Unit
	Douglas B Blair	2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 April 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of the Appeal Brief filed on 4/16/2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 7-10, and 14-17 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,850520 to Griebenow et al. in view of U.S. Patent Number 6,714,921 to Stefik et al..

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4. As to claim 15, Giebenow teaches a program product for efficiently transmitting a serial electronic publication from a server data processing system to subscribers (col. 1, lines 46-55), said program product comprising: a push engine that electronically transmits a first issue of a serial electronic publication from a server data processing system to a subscriber (col. 8, lines 19-32); and a status manager that determines whether the first issue has been opened by a subscriber (col. 8, lines 33-56, the receipt.), and the push engine transmits a second issue to the subscriber (col. 8, lines 19-32); and a computer usable medium encoding the push engine and the status manager (col. 8, lines 19-56); however Giebenow does not explicitly teach allowing the transmission of a second issue only when it has been determined that the first issue is opened.

Stefik teaches a system for transmitting serial content in which second content is sent only after first content is acknowledged (col. 32, line 37-col. 33, line 24).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Giebenow regarding processing receipts that indicate that a subscriber received a publication with the teachings of Stefik regarding a system for transmitting serial content in which second content is sent only after first content is acknowledged because such a system would prevent a user from being billed for content that they did not receive (Stefik, col. 33, lines 6-24).

5. As to claim 16, Giebenow teaches a program product wherein a push engine transmits a first issue to a subscriber by transmitting a first issue to a client data processing system associated with the subscriber (col. 8, lines 19-56); a computer usable medium also encodes an input module that receives a status update from the subscriber (col. 8, lines 19-56); and a status

manager determines whether a first issue has been opened by reference to the status update (col. 8, lines 19-56).

6. As to claim 17, Giebenow teaches a program product wherein a computer usable medium encodes instructions for allocating storage in a server data processing system for storing a subscriber status that corresponds to a status update (col. 8, lines 19-56); a status manager stores a subscriber status in a storage in response to receipt of the status update (col. 8, lines 19-56); and a push engine determines whether a first issue has been opened by reference to subscriber status such that subscriber status enables the determination to be performed without communicating with a subscriber after a first issue has been transmitted (col. 8, lines 19-56).

7. As to claim 18, Giebenow teaches a program product wherein a server data processing system includes a timer that indicates when an advertisement time for initiating distribution of an advertisement related to a serial electronic publication has been reached (col. 8, lines 33-56); and a push engine determines whether a first advertisement has been opened in response to an indication of a timer (col. 8, lines 33-56).

8. As to claims 1-4 and 8-11, they feature the same limitations as claims 15-18 and are thus rejected on the same basis as claims 15-18.

9. As to claim 14, Griebe now teaches a data processing system wherein a server data processing system includes a timer that indicates when a publication time for initiating distribution of an issue of a serial electronic publication has been reached (col. 8, lines 19-32); a status manager automatically transmits a status request to a subscriber in response to an indication of a timer (col. 8, lines 33-56, the renewal notice is a status request.); an input module

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receives a status reply from the subscriber that corresponds to a status request; and a status reply comprises a status update (col. 8, lines 33-56).

10. As to claim 7, it features the same limitation as claim 14 and is thus rejected on the same basis as claim 14.

11. Claims 5-6, 12-13, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,850520 to Griebenow et al. in view of U.S. Patent Number 6,714,921 to Stefik et al. in view further of U.S. Patent Number 6,141,010 to Hoyle.

12. As to claim 19, the teachings of the Griebenow-Stefik combination make claim 17 obvious; however Griebnow does not teach the use of http cookies.

Hoyle teaches a program product wherein a push engine transmits an http cookie to a subscriber with a first advertisement; a status update comprises a cookie response received from a subscriber; and a cookie response corresponds to an http cookie and indicates that the client software has been utilized to open a first advertisement (col. 17, lines 27-45).

It would have been obvious to one of ordinary skill in the Computer Networking art to combine the teachings of Griebenow regarding a system for publication distribution with the teachings of Hoyle regarding the use of cookies for status messages because a cookie is a commonly supported message type for transmitting status via the internet.

13. As to claim 20, the teachings of the Griebenow-Stefik combination make claim 17 obvious; however Griebnow does not teach the use of http functions.

Hoyle teaches a program product wherein a status update comprises an http function, received at a server data processing system, for storing a subscriber status at a server data processing system (col. 17, lines 27-45, a cookie is considered an http function.).

For reasons discussed in the rejection of claim 19 it would have been obvious to combine the teachings of Griebenow regarding a system for publication distribution with the teachings of Hoyle regarding the use of an http function.

14. As to claim 21, Griebenow teaches a program product wherein a server data processing system includes a timer that indicates when a publication time for initiating distribution of an issue of a serial electronic publication has been reached (col. 8, lines 19-32); a status manager automatically transmits a status request to a subscriber in response to an indication of a timer (col. 8, lines 33-56, the renewal notice is a status request.); an input module receives a status reply from the subscriber that corresponds to a status request; and a status reply comprises a status update (col. 8, lines 33-56).

15. As to claims 5-6 and 12-13, they feature the same limitations as claims 19-20 and are thus rejected on the same basis as claims 19-20.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 703-305-5267. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

Douglas Blair
June 20, 2004

DBB

Jack Harvey
JACK B. HARVEY
SUPERVISORY PATENT EXAMINER